

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

THE ART INSTITUTE OF PHILADELPHIA  
LLC, *et al.*<sup>1</sup>  
Debtors.

Chapter 7  
Case No. 18-11535 (CTG)

(Jointly Administered)

GEORGE L. MILLER, Chapter 7 Trustee,  
Plaintiff,

Adv. No. 20-50627 (CTG)

v.

TODD S. NELSON, JOHN R. McKERNAN,  
SAMUEL C. COWLEY, EDWARD WEST,  
MARK A. McEACHEN, FRANK JALUFKA,  
J. DEVITT KRAMER, MARK NOVAD, JOHN  
DANIELSON, AND MICK BEEKHUIZEN,

Defendants.

**MOTION TO DISMISS THE FIRST AMENDED COMPLAINT OF  
DEFENDANTS JOHN DEVITT KRAMER AND MARK NOVAD**

Defendants John Devitt Kramer and Mark Novad (the “Defendants”) hereby move to dismiss (the “Motion to Dismiss”) the First Amended Complaint (Adv. Dkt. 91) (the “FAC”) filed by plaintiff George L. Miller, as trustee for The Art Institute of Philadelphia, et al. (“Trustee”), with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure. In

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<sup>1</sup> Due to the large number of debtors in the above-captioned jointly-administered chapter 7 cases (the “Chapter 7 Cases”), a complete list of such debtors (the “Debtors”) and the last four digits of their federal tax identification numbers is not provided herein. Such information can be found at footnote 1 of the FAC.

support of the Motion to Dismiss, the Defendants incorporate by reference the accompanying memorandum of law (“Opening Brief”), filed contemporaneously herewith.

Pursuant to Rule 7012-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Defendants do not consent to the entry of final judgment by the Court.

WHEREFORE, the Defendants respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, dismissing the FAC and granting such other and further relief as the Court deems just and proper.

[Signature Page Follows]

Dated: April 1, 2022

YOUNG CONAWAY STARGATT & TAYLOR, LLP

s/ Sean M. Beach

Sean M. Beach (DE Bar No. 4070)  
Kevin A. Guerke (DE Bar No. 4096)  
Rodney Square  
1000 North King Street  
Wilmington, DE 19801  
Telephone: 302-571-6600  
Facsimile: 302-571-1253  
E-mail: sbeach@ycst.com  
kguerke@ycst.com

PORTER WRIGHT MORRIS & ARTHUR LLP

Thomas S. Jones (Pennsylvania ID #71636) (*pro hac vice*)  
6 PPG Place  
Third Floor  
Pittsburgh, PA 15222  
Telephone: (412) 235-4500  
Email: tjones@porterwright.com

Syed Ahmadul Huda (Ohio 0098633) (*pro hac vice*)  
41 South High Street, 29th Floor  
Columbus, OH 43215  
Telephone: (614) 227-2000  
Facsimile: (614) 227-2100  
Emails: ahuda@porterwright.com

*Attorneys for Defendants John Devitt Kramer and Mark Novad*